

SENATE BILL No. 221

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-24-15; IC 9-30-10.

Synopsis: Conditions of hardship licenses. Requires a court to impose reasonable monitoring requirements on a person who is issued a restricted driving permit if the person is a habitual traffic violator, and requires a court to impose certain conditions on habitual traffic violators.

Effective: July 1, 2010.

Wyss, Broden

January 11, 2010, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

SENATE BILL No. 221

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-24-15-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. The following
3 information must be included in a petition filed under section 2 of this
4 chapter:

- 5 (1) The petitioner's age, place of residence, and occupation.
- 6 (2) That the petitioner has never been convicted of a similar
- 7 offense or been suspended for a similar reason.
- 8 (3) The reason and nature of the hardship or burden upon the
- 9 petitioner's family or dependents.
- 10 (4) The nature of and the necessity of the use of a motor vehicle
- 11 in the petitioner's employment.
- 12 (5) The petitioner's place of employment, hours worked, and route
- 13 to be traveled for employment purposes.
- 14 (6) After June 30, 2005, a certified copy of the petitioner's driving
- 15 record in Indiana and other states in which the petitioner has held
- 16 driving privileges, including all states in which the petitioner has
- 17 held a commercial driver's license.



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(7) After June 30, 2005, a verified statement that the petitioner meets eligibility requirements for a restricted license as set forth in section 6.5 of this chapter.

(8) Whether the person is a habitual violator of traffic laws under IC 9-30-10.

SECTION 2. IC 9-24-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The court shall, after hearing the evidence upon a petition filed under this chapter and without any requests, make, sign, and file special finding of facts in writing. Except as provided in section 6.5 of this chapter, the court may do either of the following:

- (1) Refuse to grant the petition.
- (2) Make a final determination in the nature of a recommendation to the bureau that the petitioner be granted a restricted driving permit.

The judge of the court shall sign the recommendation and have the recommendation entered in the order book by the clerk of the court, with a copy sent to the bureau.

(b) If the court recommends that a person who is a habitual traffic violator under IC 9-30-10 be granted a restricted driving permit, the court shall require the person to submit to reasonable monitoring requirements.

SECTION 3. IC 9-24-15-6.5, AS AMENDED BY P.L.2-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6.5. (a) The court shall grant a petition for a restricted driving permit filed under this chapter if all of the following conditions exist:

- (1) The person was not convicted of one (1) or more of the following:
 - (A) A Class D felony under IC 9-30-5-4 before July 1, 1996, or a Class D felony or a Class C felony under IC 9-30-5-4 after June 30, 1996.
 - (B) A Class C felony under IC 9-30-5-5 before July 1, 1996, or a Class C felony or a Class B felony under IC 9-30-5-5 after June 30, 1996.
- (2) The person's driving privileges were suspended under IC 9-30-6-9(c) or IC 35-48-4-15.
- (3) The driving that was the basis of the suspension was not in connection with the person's work.
- (4) The person does not have a previous conviction for operating while intoxicated.
- (5) The person is participating in a rehabilitation program

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certified by either the division of mental health and addiction or the Indiana judicial center as a condition of the person's probation.

(b) The person filing the petition for a restricted driving permit shall include in the petition the information specified in subsection (a) in addition to the information required by sections 3 through 4 of this chapter.

(c) Whenever the court grants a person restricted driving privileges under this chapter, that part of the court's order granting probationary driving privileges shall not take effect until the person's driving privileges have been suspended for at least thirty (30) days under IC 9-30-6-9. In a county that provides for the installation of an ignition interlock device under IC 9-30-8, installation of an ignition interlock device is required as a condition of probationary driving privileges for the entire duration of the probationary driving privileges.

(d) If a court requires installation of a certified ignition interlock device under subsection (c), the court shall order the bureau to record this requirement in the person's operating record in accordance with IC 9-14-3-7. When the person is no longer required to operate only a motor vehicle equipped with an ignition interlock device, the court shall notify the bureau that the ignition interlock use requirement has expired and order the bureau to update its records accordingly.

(e) If the court recommends that a person who is a habitual traffic violator under IC 9-30-10 be granted a restricted driving permit, the court shall require the person to submit to reasonable monitoring requirements.

SECTION 4. IC 9-24-15-6.7, AS AMENDED BY P.L.68-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6.7. (a) If a petitioner whose driving license or permit is suspended under IC 9-25-6-19, IC 9-25-6-20, or IC 9-25-6-21 proves to the satisfaction of the court that public transportation is unavailable for travel by the petitioner:

- (1) to and from the petitioner's regular place of employment;
- (2) in the course of the petitioner's regular employment;
- (3) to and from the petitioner's place of worship; or
- (4) to participate in parenting time with the petitioner's children consistent with a court order granting parenting time;

the court may grant a petition for a restricted driving permit filed under this chapter.

(b) A restricted driving permit issued by the bureau under this section must specify that the restricted driving permit is valid only for purposes of driving under the conditions described in subsection (a).

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(c) A restricted driving permit issued by the bureau under this section shall be:

(1) issued in the same manner; and

(2) subject to all requirements;

as other permits under this chapter. **If the court recommends that a person who is a habitual traffic violator under IC 9-30-10 be granted a restricted driving permit, the court shall require the person to submit to reasonable monitoring requirements.**

SECTION 5. IC 9-30-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) After June 30, 2005, this section does not apply to a person who:

(1) holds a commercial driver's license; and

(2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

(b) If a court finds that a person:

(1) is a habitual violator under section 4(c) of this chapter;

(2) has not been previously placed on probation under this section by a court;

(3) operates a vehicle for commercial or business purposes, and the person's mileage for commercial or business purposes:

(A) is substantially in excess of the mileage of an average driver; and

(B) may have been a factor that contributed to the person's poor driving record; and

(4) does not have:

(A) a judgment for a violation enumerated in section 4(a) of this chapter; or

(B) at least three (3) judgments (singularly or in combination and not arising out of the same incident) of the violations enumerated in section 4(b) of this chapter;

the court may place the person on probation in accordance with subsection (d).

(c) If a court finds that a person:

(1) is a habitual violator under section 4(b) of this chapter;

(2) has not been previously placed on probation under this section by a court;

(3) does not have a judgment for any violation listed in section 4(a) of this chapter;

(4) has had the person's driving privileges suspended under this chapter for at least five (5) consecutive years; and

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(5) has not violated the terms of the person's suspension by operating a vehicle;

the court may place the person on probation in accordance with subsection (d). However, if the person has any judgments for operation of a vehicle before July 1, 2001, while intoxicated or with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per one hundred (100) milliliters of the blood or two hundred ten (210) liters of the breath, or for the operation of a vehicle after June 30, 2001, while intoxicated or with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per one hundred (100) milliliters of the blood or two hundred ten (210) liters of the breath, the court, before the court places a person on probation under subsection (d), must find that the person has successfully fulfilled the requirements of a rehabilitation program certified by one (1) or both of the following:

(A) The division of mental health and addiction.

(B) The Indiana judicial center.

(d) Whenever a court places a habitual violator on probation, the court:

(1) shall record each of the court's findings under this section in writing;

(2) shall obtain the person's driver's license or permit and send the license or permit to the bureau;

(3) shall direct the person to apply to the bureau for a restricted driver's license;

(4) shall order the bureau to issue the person an appropriate license;

(5) shall place the person on probation for a fixed period of not less than three (3) years and not more than ten (10) years;

(6) shall attach restrictions to the person's driving privileges, including restrictions limiting the person's driving to:

(A) commercial or business purposes or other employment related driving;

(B) specific purposes in exceptional circumstances; ~~and~~

(C) rehabilitation programs; **and**

(D) specified hours during which the person may drive;

(7) shall require the person to submit to reasonable monitoring requirements;

~~(7)~~ (8) shall order the person to file proof of financial responsibility for three (3) years following the date of being placed on probation; and

~~(8)~~ (9) ~~may~~ **shall** impose other appropriate conditions of

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probation, which must include one (1) or more of the following conditions:

(A) An order prohibiting the person from operating a motor vehicle or motorized bicycle while under the influence of alcohol or any other intoxicating substance.

(B) An order that the person submit to a method to monitor the person's compliance with the prohibition against operating a motor vehicle or motorized bicycle while under the influence of alcohol or any other intoxicating substance. The court shall determine the appropriate monitoring method, which may include one (1) or more of the following:

(i) The person may operate only a motor vehicle equipped with an ignition interlock device.

(ii) The person must submit to a certified chemical test if a law enforcement officer lawfully stops the person while operating a motor vehicle or motorized bicycle and the law enforcement officer requests that the person submit to a certified chemical test to determine if the person was under the influence of an intoxicating substance while operating the motor vehicle or motorized bicycle.

(iii) The person must wear a device that detects and records the person's use of alcohol. Information obtained from the device that indicates the person had alcohol in the person's system during the permitted hours of operating a motor vehicle or motorized bicycle serves as rebuttable prima facie evidence that the person operated a motor vehicle or motorized bicycle while under the influence of alcohol.

(e) If a court finds that a person:

(1) is a habitual violator under section 4(b) or 4(c) of this chapter;
(2) does not have any judgments for violations under section 4(a) of this chapter;

(3) does not have any judgments or convictions for violations under section 4(b) of this chapter, except for judgments or convictions under section 4(b)(5) of this chapter that resulted from driving on a suspended license that was suspended for:

(A) the commission of infractions only; or

(B) previously driving on a suspended license;

(4) has not been previously placed on probation under this section by a court; and

(5) has had the person's driving privileges suspended under this

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chapter for at least three (3) consecutive years and has not violated the terms of the person's suspension by operating a vehicle for at least three (3) consecutive years; the court may place the person on probation under subsection (d).

SECTION 6. IC 9-30-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) The bureau may issue a license to operate a motor vehicle to a habitual violator whose driving privileges are suspended under section 5(b) of this chapter if the following conditions exist:

(1) The time specified for the person's probation or the restriction or suspension of the person's license has elapsed.

(2) The person has met all the requirements of all applicable statutes and rules relating to the licensing of motor vehicle operators.

(3) The person files with the bureau and maintains for three (3) years after filing proof of financial responsibility in accordance with IC 9-25.

(4) The bureau places a restriction on the person's driver's license and driving record that indicates the person is prohibited from operating a motor vehicle or motorized bicycle while under the influence of alcohol or any other intoxicating substance for three (3) years after the bureau issues the driver's license to the person.

(5) The person signs a bureau form by which the person agrees that as a condition to obtaining the driver's license the person will submit to a certified chemical test at any time during the period three (3) years after the bureau issues the driver's license to the person if a law enforcement officer lawfully stops the person while operating a motor vehicle or motorized bicycle and the law enforcement officer requests that the person submit to a certified chemical test to determine if the person is under the influence of an intoxicating substance while operating the motor vehicle or motorized bicycle.

(b) The bureau may issue a license to operate a motor vehicle to a habitual violator whose driving privileges have been suspended for life if the following conditions exist:

(1) The bureau has received an order for rescission of suspension and reinstatement issued under section 15 of this chapter.

(2) The person to whom the license is to be issued has never been convicted of a violation described in section 4(a) or 17 of this chapter.

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(3) The person has not been convicted of an offense under section 16 of this chapter more than one (1) time.

(4) The person has met all the requirements of all applicable statutes and rules relating to the licensing of motor vehicle operators.

(5) The person files with the bureau, and maintains for three (3) years after filing proof of financial responsibility in accordance with IC 9-25.

(6) The bureau places a restriction on the person's driver's license and driving record that indicates the person is prohibited from operating a motor vehicle or motorized bicycle while under the influence of alcohol or any other intoxicating substance for three (3) years after the bureau issues the driver's license to the person.

(7) The person signs a bureau form by which the person agrees that as a condition to obtaining the driver's license the person will submit to a certified chemical test at any time during the period three (3) years after the bureau issues the driver's license to the person if a law enforcement officer lawfully stops the person while operating a motor vehicle or motorized bicycle and the law enforcement officer requests that the person submit to a certified chemical test to determine if the person is under the influence of an intoxicating substance while operating the motor vehicle or motorized bicycle.

(c) A habitual violator is not eligible for relief under the hardship provisions of IC 9-24-15.

SECTION 7. IC 9-30-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. (a) Upon receiving a petition filed under section 14 of this chapter, a court shall set a date for hearing the matter and direct the clerk of the court to provide notice of the hearing date to the following:

(1) The petitioner.

(2) The prosecuting attorney of the county where the petitioner resides.

(3) The bureau.

(b) A court may order the rescission of the order that required the suspension of the petitioner's driving privileges for life and may order the bureau to reinstate the driving privileges of a petitioner whose driving privileges have been suspended for life if, after the hearing of the matter, the court makes the following written findings and conclusions, based on clear and convincing evidence:

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(1) That the petitioner has never been convicted of a violation described in section 4(a) of this chapter.

(2) That the petitioner has never been convicted of an offense under section 17 of this chapter.

(3) That the petitioner has not been convicted of an offense under section 16 of this chapter more than one (1) time.

(4) If the person is petitioning the court under section 14(a) of this chapter that ten (10) years have elapsed since the date on which an order was issued that required the suspension of the petitioner's driving privileges for life.

(5) That there has been a substantial change in the petitioner's circumstances indicating the petitioner would no longer pose a risk to the safety of others if the petitioner's driving privileges were reinstated.

(6) That there has been a substantial change in the petitioner's circumstances indicating that the suspension of the petitioner's driving privileges for life has become unreasonable.

(7) That it is in the best interests of society for the petitioner's driving privileges to be reinstated.

(8) If the person is petitioning the court under section 14(e) of this chapter:

(A) that three (3) years have elapsed since the date the order was issued that required the suspension of the petitioner's driving privileges for life; and

(B) that the conditions listed under section 14(e) of this chapter are satisfied.

(c) The petitioner has the burden of proof under this section and an order issued under subsection (b) is a final order, appealable by any party to the action.

(d) In an order for reinstatement of driving privileges issued under this section, the court may require the bureau to issue to the prevailing petitioner:

(1) a license to operate a motor vehicle under section 13(b) of this chapter; or

(2) a restricted driving license for a time and subject to conditions specified by the court, **which must include one (1) or more of the following conditions:**

(A) Specified hours during which the person may drive.

(B) An order prohibiting the person from operating a motor vehicle or motorized bicycle while under the influence of alcohol or any other intoxicating substance.

(C) An order that the person submit to a method to

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1 **monitor the person's compliance with the prohibition**
 2 **against operating a motor vehicle or motorized bicycle**
 3 **while under the influence of alcohol or any other**
 4 **intoxicating substance. The court shall determine the**
 5 **appropriate monitoring method, which may include one (1)**
 6 **or more of the following:**

7 **(i) The person may operate only a motor vehicle**
 8 **equipped with an ignition interlock device.**

9 **(ii) The person must submit to a certified chemical test if**
 10 **a law enforcement officer lawfully stops the person while**
 11 **operating a motor vehicle or motorized bicycle and the**
 12 **law enforcement officer requests that the person submit**
 13 **to a certified chemical test to determine if the person was**
 14 **under the influence of an intoxicating substance while**
 15 **operating the motor vehicle or motorized bicycle.**

16 **(iii) The person must wear a device that detects and**
 17 **records the person's use of alcohol. Information obtained**
 18 **from the device that indicates the person had alcohol in**
 19 **the person's system during the permitted hours of**
 20 **operating a motor vehicle or motorized bicycle serves as**
 21 **rebuttable prima facie evidence that the person operated**
 22 **a motor vehicle or motorized bicycle while under the**
 23 **influence of alcohol.**

24 (e) If a court orders the bureau to issue a restricted driving license
 25 to a petitioner under subsection (d), the court shall specify the
 26 conditions under which the petitioner may be issued a license to
 27 operate a motor vehicle under section 13(b) of this chapter. After the
 28 expiration date of the restricted license and upon:

29 (1) fulfillment by the petitioner of the conditions specified by the
 30 court; and

31 (2) the expiration of the restricted license issued under subsection
 32 (d)(2);

33 the bureau shall issue to the petitioner a license to operate a motor
 34 vehicle under section 13(b) of this chapter.

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